

## History and Purpose

The South Dakota Legislature passed the South Dakota Human Relations Act in 1972. This Act, published in the South Dakota Compiled Laws as Chapter 20-13, prohibits discrimination because of race, color, creed, religion, sex, ancestry, disability or national origin.



It covers employment practices, labor union membership and services, housing accommodations, education, public accommodations, public services and property rights. The Act also makes it illegal for any person to discriminate against someone because he or she has filed a complaint with the Division of Human Rights, has testified on a matter before the Division, or has assisted the Division to carry out the purposes of the Act. The law became effective on July 1, 1972.

The law created the South Dakota Commission of Human Rights. The Commission is composed of five members, all appointed by the governor, with Senate confirmation for four-year terms.

The Division of Human Rights handles daily administrative affairs, conducts investigations and attempts voluntary settlement of complaints.

One thousand copies of this publication were produced by the South Dakota Department of Labor and Regulation at a cost of 3 cents per copy.

Auxiliary aids and services are available upon request to individuals with disabilities. State and federal laws require the Department of Labor to provide services to all qualified persons without regard to race, color, religion, age, sex, ancestry, political affiliation or belief, national origin, disability, or marital or economic status.

## Publications & Resources

All of these materials are provided at no charge from the Department of Labor and Regulation.

- **The South Dakota Human Relations Act of 1972 SDCL 20-13.** Full text of the statute enforced by the Division of Human Rights and the Commission of Human Rights.
- **Rules of the South Dakota Commission of Human Rights.** Interprets and implements the South Dakota Human Relations Act in the areas of complaint procedure and discrimination.
- **Pre-employment Inquiry Guide.** Questions to ask and questions to avoid asking a job applicant.
- **Guide for Complainants/ Guide for Respondents.** Outlines procedures and the rights and obligations of Complainants/ Respondents in complaints filed with the Division of Human Rights.
- **Sexual Harassment.** Defines sexual harassment, outlines a plan of action for victims, and explains employer liabilities, filing a complaint, and what constitutes reprisal.



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## Related Agencies

### U.S. Equal Employment Opportunity Commission

The EEOC enforces Title VII of the 1964 Civil Rights Act. EEOC also enforces the Equal Pay Act and the Age Discrimination in Employment Act. Title VII covers employers of 15 or more persons, including state and local governments, labor unions, apprenticeship programs and employment agencies.

### Office of Federal Contract Compliance

Located within the U.S. Department of Labor, OFCC administers the President's Executive Orders requiring affirmative action for women, minorities, Vietnam veterans and the handicapped by federal contractors and subcontractors. EEOC and OFCC work closely together, and a charge of discrimination filed with one is considered filed with both.

### Office of Personnel Management

Under the provisions of Executive Order 11478 and Title VII of the Civil Rights Act, the Office of Personnel Management promotes and enforces equal employment opportunity in the federal government. Complaints of discrimination are investigated by each federal agency but may be appealed to the Office of Personnel Management.

### U.S. Dept. of Housing and Urban Development

HUD's Office of Equal Opportunity administers the Fair Housing Act of 1968, which prohibits discrimination based on race, color or creed in the sale or rental of housing.

### Federal Trade Commission

FTC enforces the Equal Credit Opportunity Act, which prohibits creditors from discriminating on the basis of race, color, sex, religion, national origin, age and marital status.

### U.S. Dept. of Education

This department enforces the provisions of Title IX of the 1964 Civil Rights Act that prohibit sex discrimination in any educational program or activity receiving federal financial assistance.

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Division of

# Human Rights

What you need to know.



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## Coverage

The South Dakota Human Relations Act of 1972 applies to everyone. The only exceptions to this broad coverage are allowances made for religious institutions in the areas of employment and education, as well as exemptions for sex discrimination for voluntary youth services organizations, veterans organizations, fraternities, sororities and father-son, mother-daughter activities.

Also, the Commission, like all other state agencies, may not enforce the law against the federal government, nor may the Commission assert jurisdiction over the tribes or any tribally owned enterprise.

## Human Rights in Action

The Division's basic responsibility is to promote equal opportunity through the administration and enforcement of the Human Relations Act. It does this through many different approaches:

- The Division investigates complaints filed by people who believe they have been discriminated against. If it finds a complaint is justified, the Division seeks to settle the complaint by conference and conciliation and to permanently correct any discriminatory practices.
- The Commission, a Commissioner, the Attorney General or a States Attorney may initiate a complaint and investigation where they have reason to believe that a person is violating the South Dakota Human Relations Act.

## Reprisal

**Any person who files a charge of discrimination, testifies, assists or participates in any way in an investigation, hearing or any other proceeding conducted by the South Dakota Division of Human Rights is protected by law against reprisal by any person, employer, employment agency, labor organization, landlord or other covered individual or organization.**



- The Commission holds public hearings on complaints where a determination of probable cause has been made and voluntary settlement is not successful. Where the Commission finds a violation of the Act as a result of the hearing, it issues final orders to correct any discriminatory practices and to prevent their recurrence.
- The Division offers technical assistance to employers, real estate agents and landlords, labor unions and others interested in affirmative action and voluntary compliance with the South Dakota Human Relations Act.
- The Division provides public information and works with individuals, civic and professional organizations, and civil rights groups to promote equal opportunity for all South Dakotans.

## Employment

It is unlawful for:

- An employer to refuse to hire a person, to discharge or lay off an employee, to harass or to treat persons differently in the terms and conditions of employment because of race, color, creed, religion, sex (includes pregnancy), ancestry, disability or national origin;
- A labor union to refuse membership or to deny any rights given to other union members because of race, color, creed, religion, sex (includes pregnancy), ancestry, disability, or national origin;
- An employment agency to refuse an applicant or to deny an applicant any rights given to other applicants on the basis of race, color, creed, religion, sex (includes pregnancy), ancestry, disability, or national origin.
- To advertise job openings or union memberships indicating a preference for or excluding a particular race, color, creed, religion, sex (includes pregnancy), ancestry, disability, or national origin.

**No person can be denied the right to full and equal use, benefit, or service of**

- **Public Accommodations**
- **Public Services**
- **Education**

**because of race, color, creed, religion, sex, ancestry, disability or national origin.**

## Disability

Disability is any physical or mental characteristic resulting from disease, injury, congenital condition of birth or functional disorder which is unrelated to a person's ability to perform a job, to qualify for employment or promotion, to acquire, rent or maintain property, and to utilize and benefit from educational opportunities, programs, and facilities at an educational institution.



Good faith efforts must be made to reasonably accommodate the disabled person unless accommodation would impose undue hardship.

## Pregnancy

Under state and federal laws, pregnancy is to be treated as any other temporary disability is treated. A woman cannot be fired, refused employment, required to take leave, or treated differently as long as she can perform her job duties adequately. If other employees are given special accommodation when disabled so must a pregnant employee be given such accommodation. An employee cannot be forced to return to work before she is medically able. Likewise, an employer does not have to extend leave longer than medically necessary unless such benefits are given to other temporarily disabled employees.

## Harassment

Harassment occurs when employment decisions are based upon refusal or acceptance of sexual advances, or creating a hostile working environment so severe as to hinder a person's ability to do their work. Once an employer is made aware of a harassment situation it becomes their responsibility to take action to correct the situation. The South Dakota Human Relations Act prohibits harassment based on race, color, creed, religion, sex, ancestry, disability or national origin.

## Real Property & Housing

It is unlawful for:

- An owner, or representative of an owner, to refuse to sell, rent or lease any property; to treat people differently in the terms or conditions of any sale, rental or lease; to ask questions, make records or to print signs or advertise in a manner which discriminates on the basis of race, color, creed, religion, sex, ancestry, disability or national origin.
- Any person, bank, mortgage company, insurance company or other financial institution to discriminate in the lending of money to buy, build or repair property.

